

**U. S. CUSTOMS SERVICE
REGULATORY AUDIT DIVISION**

**Importer Compliance Monitoring Program
(ICMP)**

“A VITAL KEY TOWARD MAXIMIZING IMPORTER COMPLIANCE”

**U.S. CUSTOMS SERVICE
REGULATORY AUDIT DIVISION
IMPORTER COMPLIANCE MONITORING PROGRAM**

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**U.S. CUSTOMS SERVICE
REGULATORY AUDIT DIVISION
IMPORTER COMPLIANCE MONITORING PROGRAM**

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**U.S. CUSTOMS SERVICE
REGULATORY AUDIT DIVISION
IMPORTER COMPLIANCE MONITORING PROGRAM**

I INTRODUCTION

Since December 1993, all trade-related activities initiated by Customs have been driven by the Customs Modernization Act (MOD Act). The MOD Act instituted the concept of Customs sharing responsibility with the importing community for achieving maximum compliance with U.S. laws and regulations. To meet this new responsibility, Customs has worked closely with the import community to develop programs that address issues whose resolutions have mutual benefits. Importer Compliance Monitoring Program (ICMP) is a voluntary program that was born out of this collaborative process. The purpose of this publication is to describe that program.

II TRADE COMPLIANCE PROCESS

Trade Compliance is Customs' core business process related to the importation of merchandise. The primary goal of Trade Compliance is to ensure compliance with U.S. laws while facilitating the importation of legitimate cargo.

The Trade Compliance process has been significantly impacted by the Mod Act, an increasing workload with a static workforce, and increasing trade complexity. To meet the challenges that these factors impose, Customs has undertaken a comprehensive effort to review, improve and redesign the Trade Compliance process using established business processes, re-engineered tools, and methodologies that focus on efficient and effective business practices that improve customer service, while fulfilling Customs mission. These efforts are being made at both the national and port levels.

In contrast to the traditional audit focus of only identifying lost revenue; the concepts of shared responsibility and informed compliance embodied in the Mod Act, places much more emphasis on optimizing continued compliance with Customs laws and regulations. Further streamlining of the Trade Compliance Process can be achieved by the import community engaging in a program to self assess their overall compliance with Customs laws and regulations.

III. IMPORTER COMPLIANCE MONITORING PROGRAM DESCRIPTION (ICMP)

Importer Compliance Monitoring Program (ICMP) may be conducted by the importer or their designated contractor and is embedded in the importer's corporate structure. The Program was designed to encourage U.S. importers to develop and maintain efficient / effective internal controls over Customs related transactions.

ICMP does not signal a change in Customs attitude toward the importance of oversight. Rather, the program will be utilized by those importers who are willing to set a positive course for their importing activities by building effective systems that produce compliant Customs transactions. Some benefits derived for those participating in the program are:

1. Better knowledge of their import operations and obligations under the MOD Act and U.S. law.
2. Certainty of duty costs,
3. Less government intrusiveness,
4. Reduced cargo / transactional examinations based on acceptable compliance performance.

A. Guidelines for Participants

1. Eligibility for Participation

To participate in this program, Customs does not require any company to have undergone a Customs compliance assessment.

Each year there will be an open season period, during the month of January, for those wanting to participate. Customs will notify those accepted into the program no later than March 1st, with consultation following, as soon as an agreeable date between Customs and the participant can be set. Should a situation arise, where the number of participants exceeds Customs available resources to properly service this program; the selection criteria identified in **Appendix I** will be applied.

2. Consultation With Customs

Subsequent to being selected for this program; the company is required to consult with the Customs Service about the program's requirements detailed in section III B. This is necessary to ensure that all parties have a mutual understanding of the company's business practices and their corresponding relationship to this program. These consultations are not designed to increase Customs oversight. Additionally, they are to take place at the beginning of each new business year.

3. Independent Testing

Ideally, a group independent of the importing function should conduct the work associated with ICMP. Should an importer find that achieving this independence is not feasible, the program may be conducted by the individuals responsible for the company's import function. Utilization of outside professionals (Customhouse brokers, accounting / law firms, or other qualified independent practitioners) is not required by Customs, but may be made at the discretion of the importer.

B. Program Requirements

The program requirements encompass both process and transactional reviews. Keeping in mind that employee turnover and technology changes all have a significant impact on the way any company operates; item 1 below represents the process review portion of the program and contains minimal program requirements, which must be updated at least once a year. Item 2 addresses transactional testing which may be initiated during different time periods depending upon the category a participant operates under. Item 3 describes the reporting procedures to be used by participants to communicate program information to Customs.

1. Process Review

a. Prepare or Update a Flowchart and Narrative

Prepare or update a flowchart and narrative of the company's import process from the time that a purchase order is issued to the final payment. The flowchart and narrative should contain the types of internal controls that are exercised over Customs transactions. Clearly describing where import information is stored and processed, as well as, the name of offices and personnel responsible for each import function identified in the flowchart, will greatly assist any company in identifying the internal controls exercised over its' own import operation.

b. Complete or Update Questionnaires

As part of this program exhibits 19 and 20 (General and EDP questionnaires) contained in the Compliance Assessment Kit, are attached as **Appendix II**. Questions contained in these two questionnaires are designed to facilitate the flowcharting in item one above and document other information related to the import process.

c. Perform a Macro Test of Value Information

Overall, a macro test is a reconciliation of the participants payment data to the value information filed with Customs for the express purpose of establishing a population of data to sample / test. Any member of the import community electing to participate in the ICMP will receive, on an annual basis, a disk containing all of its import transactions that reflect value information reported to Customs for a specified period of time.

Taking into consideration that businesses engage in a multitude of payment practices (30, 60, 90 days, net, etc.) it is understood that timing differences may affect the reconciliation of the participants payment data to the value information filed with Customs. Additionally, there may be other issues affecting the reconciliation. To ensure the population being sampled / tested presents fairly, any difference equal to or greater than 5% will require close scrutiny of company payment data and Customs entry information.

The results of this reconciliation should be reported to Customs, should any difference, as specified in paragraph two above occur. If this information is submitted by means of a prior disclosure, and not the result of fraud, only duties and interest may be owing.

2. Transactional Testing

The scope and frequency of transaction testing to be utilized by program participants will vary depending upon the assigned participant category. Participant categories have been developed in conjunction with the participant's Compliance Assessment history and are described below.

Category I

1. Has had a Compliance Assessment performed within the last three years, was found to be compliant.

2. At a minimum, will review all areas identified in the Program Requirements Matrix (see **Appendix III**) within a three year period.

Category II

1. Has had a Compliance Assessment performed within the last three years, was found to be non-compliant.

2. At a minimum, will review all areas identified in the Program Requirements Matrix (see **Appendix III**) within a three year period. However, those areas found non-compliant by the Compliance Assessment will be subject to yearly transactional testing until reported as being compliant and validated by Customs.

Category III

1. Has not had a Compliance Assessment performed within the last three years.

2. At a minimum, will cover all the areas identified in the Program Requirements Matrix (see **Appendix III**) within a two year period.

Due to the large volume of importing transactions processed by a large number of importers, it is impractical to examine all transactions to determine rates of compliance with Customs laws and regulations. **Appendix IV** describes the areas to be tested and provides criteria to be used in establishing sampling populations to determine whether Special Trade Program areas require testing.. **Appendix V** describes the sampling methodology used in this program to test all major trade areas relevant to the importer, i.e., Valuation, Classification, Record keeping, etc. Understanding the sampling methodology is crucial and Customs will provide the necessary assistance to explain this technical information. Additionally, Customs will oversee the sample selection while consulting with the program participant.

What constitutes an error for each trade area is described on the sampling matrices included as exhibits 3-18 in the CAT KIT and in the Materiality Policy attached as **Appendix VI**.

3. Annual Procedures

If tests results indicate a need for improvement, a compliance improvement plan will be prepared by the importer and submitted to Customs. If any loss of revenue due to a violation of 19 USC 1592 is found the participant may be able to utilize Prior Disclosure to avoid or reduce any penalty under that provision.

C. Customs Validation Procedures

1. Objective

An integral part of this program is the process by which Customs assures itself that each participant properly conducts its Process Reviews and Transactional Testing in accordance with the program requirements. This validation process protects Customs by identifying compliant/non-compliant areas while providing feedback on the effectiveness of the companies internal controls.

Customs validation should arrive at the same conclusion as that of the participant during the conduct of its own review. Customs will follow the basic requirements contained in GAO's Government Auditing Standards which, among other things, allows Customs auditors to rely on the work of others. However, Customs personnel performing this work must have a sufficient basis for such reliance.

2. Scope of Validation

The scope of Customs validation will include reviews of both the participant's own Process Reviews and Transactional Testing during a given period of time. The participant's review responsibilities are shown in detail in the Program Requirements Matrix (**See Appendix III**) and correspond directly to the pre-determined Participant Category noted in Section III.B.2.

a. Process Reviews

Validation of the participant's Process Reviews will involve a determination that applicable flowcharts, narratives, General and EDP questionnaires are completed/updated, and the Macro Test of Value Information is performed annually as required.

b. Transactional Testing

Validation of a participant's degree of compliance will entail reviewing each sampled item to ensure that the reported results are fully supported.

3. Documentation Required

All documentary evidence of the participant's ICMP reviews must be retained for five years by the participant and should be available for review by Customs.

Program Selection Criteria

Customs will apply the following selection criteria to companies electing to participate in the program should resources to service the program become an issue.

1. Companies that reside within the current Top 250 importers ranked by entered value in descending order within a Primary Focus Industry (PFI) and have a National or Port Account Manager . If this produces companies with the same numerical ranking in different PFI's and both have account managers, then the company with the highest total entered value will be selected.
2. Companies that reside within the current Top 250 importers ranked by entered value in descending order within a PFI and do not have a National or Port Account Manager. If this produces companies with the same numerical ranking in different PFI's, then the company with the highest total entered value will be selected.
3. Companies not ranked within the Top 250 of any of the PFI's will be selected on the basis of the highest total entered value.

**GENERAL QUESTIONNAIRE FOR COMPLIANCE ASSESSMENT
U.S. CUSTOMS SERVICE
OFFICE OF REGULATORY AUDIT**

Date: July 1997

INTRODUCTION

The General Questionnaire for Compliance Assessment requests information which will be needed during the compliance review in order for the auditor to become knowledgeable with the company's organizational structure, relationship to suppliers, record keeping system, internal controls, basis for determining the method of appraisement and other procedures concerning Customs. The questionnaire was designed to help Customs representatives understand the company's operations, to advise company representatives of items Customs representatives will be covering during the review and to provide the company representatives with a better understanding of what the review process will be like.

REVIEW SCOPE

The questionnaire identifies the general areas which the auditors will be primarily interested in at the start of the compliance assessment review. By completing the questionnaire completely and comprehensively, the company will have advance knowledge of most of the major areas of interest during the review and will be prepared to discuss the company's operations relative to Customs requirements. Discussions with the company and review of records during the review may identify other areas of interest which the auditors will discuss with company representatives. Although it is not necessary for the company to complete all the questions before the start of the compliance assessment review, all of the questions must be completed during the review. Delays in answering the questions may prolong the review process.

The responses to this questionnaire will provide the auditors with information needed to plan their approach, discussions and review work. Responses to these questions, discussions with company personnel and reviews of company procedures, accounting and other records will be the bases for the auditor's decisions on what areas to test during the compliance assessment review.

A. General Organizational Information: Please review and make any necessary corrections to any of the following information filled in and provide the information for items not completed.

1. Company's full name and IRS identification number.[2.2B]

GENERAL QUESTIONNAIRE FOR COMPLIANCE ASSESSMENT

2. Description of overall organization structure, organization charts, and similar information. [2.5B]
3. Name and title of the company's officers. [2.8 D(1)]
4. Information concerning company's parent, sister, subsidiaries, and joint venture organizations and relationships. [2.8 D(1)]
5. Names and addresses of any foreign related companies (as defined in section 152.102(g) of the Customs Regulations). [2.8 D(1)]
6. General information on company such as a description of business operations, number of employees, location of facilities and related operations, products, divisions, and customers.[2.2 I, 2.3A]
7. Name and contact person for external financial auditors, such as a certified public accountant, and authorization to contact those auditors.[2.2 G]
8. Name, title, and telephone number of the official(s) preparing information for this questionnaire. [2.2 D]
9. Name, title, and telephone number of the person who will be the U. S. Customs contact during the review. [All]

B. Customs Related Activities: Please review and make corrections to any of the following information filled in and provide the information for items not completed:

1. Names and Importer ID numbers under which the company imports. [2.2A]
2. Identify the organizational elements (departments, divisions, subsidiaries, etc.) involved in Customs related operations. [2.5 B,C]
3. Identify any broker's bond which the company imports under. [2.5A]
4. Names and locator information for key individuals associated with Customs-related operations. [2.5C,D]
5. Names and addresses of brokers used by your company. [2.5A]

GENERAL QUESTIONNAIRE FOR COMPLIANCE ASSESSMENT

6. Names and addresses of major foreign suppliers (10% of total entered value is considered major). [2.8 D (1)]
7. Describe the disposition of imported products (manufacturing, resale, etc.). [2.8 D (1)]
8. Identify and explain situations in which the company exports merchandise from the United States. [2.8 D (1)]
9. Identify situations in which the company imports merchandise in accordance with Customs binding rulings. [2.8 A]

C. Record Keeping System:

1. Identify the source records and information used to prepare Customs information. Explain how they are created, maintained, and transferred to and from originating, using, and storing organizations. Provide operating procedures and associated internal controls over record production and retention. [2.8 F]
2. Identify location of records (identify documents and information maintained at each location). [2.8 F]
3. Provide a description and/or flowchart of the company's activities, documents and financial accountability used for acquisition of foreign merchandise in the following areas:
 - purchase of foreign merchandise
 - receipt of foreign merchandise
 - recording in inventory
 - payments made to foreign vendor
 - distribution to customers
 - export of merchandise, if applicable. [2.3 A,B,C; 2.4 A]
4. Identify individuals responsible for the various activities described above. [2.3 A, B; 2.4 A]
5. Identify the General Ledger Accounts used to record the transactions described above. Are the financial records linked to Customs transactions by entry numbers, Customs invoice numbers or other identifiers? Please explain. [2.3 A, B; 2.4 A]

GENERAL QUESTIONNAIRE FOR COMPLIANCE ASSESSMENT

6. What methods of payment are used for foreign purchases, i.e. letters of credit, wire transfers, checks? Are payments made in U.S. dollars or other currency? How frequently are payments made to foreign vendors? [2.3 C; 2.5 C]
7. What is the usual period of record retention for the company, and what storage mediums are used? [2.4 A; 2.5 C]
8. Identify company's fiscal year. [2.2 A]

D. Internal Controls:

1. Identify the company's formal policies and procedures manuals or other written directives related to the handling of Customs activities described in Section C. If there are no formal written procedures, provide a written summary of your procedures for ensuring compliance with Customs laws, regulations, and rulings. [2.5 B,C]
2. Explain procedures to ensure that assists, commissions, royalties, license fees, freight and other dutiable costs are correctly reported to Customs. [2.5 C; 2.8 D (4)]
3. Explain procedures to ensure that non-dutiable costs such as international freight and insurance are accurate and fully supported by documentation. [2.8 D (2)]
4. Explain results of evaluations (internal or external) of the effectiveness of the company's system of internal controls, particularly with respect to Customs-related operations. [2.5 B]

E. Customs Value Information:

1. Identify the method of appraisement, as prescribed in sections 152.103 through 152.108 of the Customs Regulations, used to value imported merchandise from each of your major suppliers (10% of total entered value is considered major). If method is transaction value, provide explanation and support documentation. [2.6 A]
2. If transaction value is used for importations from related parties, do the importations qualify for transaction value based on the circumstances of the sale or on the basis of test values. Provide an explanation and support documentation for the method which you use to support transaction value. [2.6 A]

GENERAL QUESTIONNAIRE FOR COMPLIANCE ASSESSMENT

3. Describe how prices for imported merchandise from major suppliers are determined. [2.6 B; 2.8 D (1)]
4. If the company is an exclusive U.S. importer of merchandise from foreign suppliers, explain the circumstances of sale and relationship with the foreign suppliers. Provide written agreement, if applicable. [2.8 D (1)]
5. If applicable, identify situations in which foreign related suppliers sell to same or similar merchandise to other U.S. companies. [2.6 B]
6. Explain how and when the company takes title to the imported merchandise. [2.8 D (1)]
7. Explain transportation procedures and responsibilities for foreign (including inland freight charges), international, and domestic transportation of merchandise from the foreign plant to the place of international shipment, to the port of importation, and to the final U.S. destination. Identify general ledger accounts used to record the various freight charges. [2.8 D (2)]
8. Explain contractual agreements between the company or foreign suppliers with shippers or freight forwarders. Identify and explain any rebates received by the company or foreign affiliate from shippers or freight forwarders. Identify general ledger accounts used to record rebates, if any. [2.8 D (2)]
9. Identify and explain loans payable to or receivable from foreign suppliers and sellers. [2.8 D (1)]
10. Identify situations in which the merchandise price from the foreign seller does not include all costs plus a profit. [2.8 D (1)]
11. Identify and explain retroactive price increases, rebates, allowances or price adjustments (directly or indirectly from foreign exporters or sellers) for imported merchandise at the end of the accounting period or other times which are paid to or accrue to the company and/or the foreign supplier. Identify the general ledger accounts used to record these transactions. [2.8 D (1)]
12. Explain procedures and accounting for foreign currency fluctuations. Identify general ledger accounts used to record the fluctuations. [2.8 D (2), (4)]

GENERAL QUESTIONNAIRE FOR COMPLIANCE ASSESSMENT

13. Identify and explain payments to foreign companies for expenses other than imported merchandise, such as management fees, research and development, tooling, and similar items. Identify general ledger accounts used to record these transactions. [2.8 D (4)]
14. Identify and explain situations in which the foreign seller influences or controls the resale price of merchandise imported into the United States. [(2.8 D (1)]
15. Identify and explain situations in which prices for imported merchandise are subject to restrictions or conditions as explained in sections 152.103(j)(1)(I-iv) of the Customs Regulations. [2.8 D (1)]
16. Describe how packing costs are calculated and declared to Customs in accordance with section 152.103(b)(1)(I) of the Customs Regulations. Identify general ledger accounts where packing costs are recorded. [2.8 D (4)]
17. Identify and explain situations in which the company uses the services of foreign selling agents. Explain procedures for declaring selling commissions on entries in accordance with section 152.103(b)(1)(ii) of the Customs Regulations. Provide names and addresses of agents, agency agreements, and identify the general ledger accounts used to record commissions and related transactions. [2.8 D (4)]
18. Identify and explain situations in which the company or third parties provide assists to foreign suppliers in accordance with sections 152.103(b)(1)(iii) and 152.103(d) of the Customs Regulations. Describe the form of any assists (tools, molds, fabrics, loans, design and engineering costs, machinery used in production, etc.), their values, and identify the general ledger accounts used to record these transactions. [2.8 D (4)]
19. Identify and explain situations in which royalties or license fees were paid for imported merchandise. Provide copies of the royalty or license agreements, and identify the general ledger accounts used to record these transactions. [2.8 D (4)]

GENERAL QUESTIONNAIRE FOR COMPLIANCE ASSESSMENT

20. Identify and explain situations in which the company makes indirect payments to foreign suppliers as covered by section 152.103(a)(2) of the Customs Regulations. Provide copies of supporting documentation, agreements, and identify the general ledger accounts used to record these transactions. [2.8 D (4)]
21. If applicable, explain circumstances and responsibilities for obtaining and paying for quota, visa and licenses. Identify the general ledger accounts used to record these transactions. [2.8 D (4)]

**U.S. CUSTOMS SERVICE
REGULATORY AUDIT
EDP QUESTIONNAIRE**

1. Please provide the following information regarding your Electronic Data Processing equipment and system: (Audit program step 2.4 A-E)

A. EDP Department Contact Person and Phone Number: _____

B. Data Center Locations: _____

C. Equipment:

Computer Manufacturer: _____

Model: _____

Type of Equipment (LAN/WAN, Mini, Mainframe, PC): _____

D. Peripheral Devices and Software:

Tape Drives: _____(Density)

Disk Drives: _____(Model)

Operating System(s): _____

Program Development Environment (TSO/ISPF, Roscoe): _____

Current Version of COBOL Compiler: _____

Retrieval Software (Easytrieve, SQL, RPG, SAS): _____

Utilities (SyncSort, DFSort, IBM OS Utilities): _____

Accounting Software Package: _____

Appendix II
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(CAT Kit Exhibit 20)

E. Management Information System:

Contact Name: _____

Phone Number: _____

2. List records that are kept electronically (general ledger, subsidiary ledgers, inventory, etc.): (Audit program step 2.4 C)

3. For each record system, provide the following information: (Audit program step 2.4 B and C)

- record layout
- field description
- period of active retention on electronic media
- period of retrievable retention on electronic media
- established key fields for data base queries

4. Please provide a copy of your internal control procedures for EDP operations. (Audit program step 2.4 B)

1

IMPORTER REPRESENTATIVE'S NAME	TITLE	SIGNATURE
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Appendix IV

Criteria to Be Utilized When Establishing Sampling Populations

The “**\$10 million or 5%, whichever is greater**” criteria is to be used when trying to determine whether separate populations should be established for testing transactions. The following examples are given to show how this criteria is applied.

Example # 1

XYZ Company imports \$30 million of which \$5 million is related to GSP. The following calculations are made based upon these facts.

$$\$30 \text{ million} \times 5\% = \$1.5 \text{ million}$$

Although the \$5 million in GSP is greater than the \$1.5 million; it is not greater than \$10 million, therefore the \$5 million GSP is included in the overall sampling population and there will only be one sample to test.

Example # 2

XYZ Company imports \$30 million of which \$10 million is related to GSP. The same calculation in example # 1 above is made.

$$\$30 \text{ million} \times 5\% = \$1.5 \text{ million}$$

Since the \$10 million in GSP is greater than the \$1.5 million and is equal to the \$10 million threshold established in the rule; GSP will be broken out as a separate population and there will be two populations to test.

Note: Given the fact that import practices may change each year this calculation should be performed annually. Population differences occurring from one year to another, in terms of special trade programs, must be identified so that coverage of these areas can be provided during the period specified for each category.

IMPORTER COMPLIANCE MONITORING PROGRAM(ICMP) STATISTICAL SAMPLING PROGRAM

I. Basis for Transaction Testing

Customs goal of maximizing importer compliance with U.S. trade laws requires measurements of importer and industry compliance. These measurements enable Customs, as well as an importer, to evaluate systems of internal controls over Customs-related operations. Also, these measurements provide Customs with a mechanism for monitoring progress towards its desired compliance goals. Transaction testing is the method used to evaluate and measure compliance with Customs regulations. Therefore, transaction testing is an integral part of the I.C.M.P. (Importer Compliance Monitoring Program).

II. Rationale for Statistical Sampling

Many importers process a high volume of Customs-related transactions which makes an examination of all transactions impractical to perform. Therefore, statistical sampling will be used to evaluate compliance rates and draw valid conclusions on the importer's Customs operations without reviewing all transactions. Statistical sampling provides an unbiased approach for evaluating an importer.

The goal of ICMP transaction testing is to test the **least** amount of Customs- related transactions necessary to determine whether the trade areas listed in appendix III are at least 95% compliant. Therefore, attribute discovery sampling (which employs minimal sample sizes) will be implemented as the primary approach for evaluating applicable trade areas.

Based on sampling parameters established by Customs for compliance assessment (CA) reviews, an importer will typically review a minimum of 59 Customs-related transactions to determine whether a trade area is at least 95% compliant. The primary differences between the transaction testing performed in a CA review and the ICMP program are:

1. the level of transaction testing for a CA review is greater;
2. the time frame to review all trade areas on an ICMP review can be greater; and,
3. the transaction testing on an ICMP review is performed by the importer, while the testing on a CA review is done by Customs.

III. Statistical Sampling Steps

	Category I	Category II	Category III
	A CA review was performed within the past three years and all trade areas were found to be compliant. If non-compliant areas were disclosed, they were corrected through a CIP that was verified by Customs.	A CA review was performed within the past three years, however, it disclosed non-compliant areas. Non-compliant areas were either not corrected through a CIP or CIP was not verified with a follow-up review by Customs.	No CA review was performed within the past 3 years.
A. Determine Applicable Trade Areas	Determine the applicable trade areas for review from appendix III and IV.		
B. Establish Time- Frame for Testing Trade Areas	Review applicable trade areas within a three year period. Note: more than one trade area can be reviewed from the same sample.	A review of non-compliant trade areas must be performed in the first year of ICMP and each year until compliant. Review compliant and any new applicable trade areas within a three year period. Note: more than one trade area can be reviewed from the same sample.	Review all applicable trade areas within two years.
C. Statistical Sampling Frame	<ol style="list-style-type: none"> 1. Determine the sampling frame from which a sample will be drawn. 2. Validate a sampling frame that represents all merchandise imported during the company's last completed fiscal year. <ol style="list-style-type: none"> a. Reconcile Customs' ACS Database to the importer's books and records. b. Accept a sampling frame if it can be reconciled to within five percent of the value imported. 		
D. Random Selection of Transactions	<p>Select a random sample of 220 transactions from sampling frame.</p> <ul style="list-style-type: none"> • Every transaction must have an equal chance of selection. In other words, the universe size must be known and each item must have a (one/universe size) chance of selection. • The selection method must be random. • If the number of transactions in the universe is 220 or less, randomly select 59 transactions. 		
	Category I	Category II	Category III

<p>E. Review Process</p>	<p>Review the first 59 randomly selected transactions for “letter of the law” compliance. See Exhibits 3-19 of the CAT kit for criteria to determine an error.</p> <ol style="list-style-type: none"> 1. If no errors are found, report that this test disclosed a minimum of 95% compliance for the trade area tested, and do not continue with the remaining steps. 2. If one or more errors are found, determine the cause for the error(s) and proceed with the following: <table border="1" data-bbox="296 391 1967 1349"> <tr> <td data-bbox="296 391 1178 1349"> <ol style="list-style-type: none"> a. If all errors found in 2. above are the same type as those disclosed and determined to be immaterial in the prior CA review, then report compliance is at least 95% due to materiality. <p>Note: The type and cause of the errors have to be identical to the immaterial errors disclosed in the CA review. Also, the magnitude of the errors should be within the range (dollars and frequency) as those found in the CA.</p> <ol style="list-style-type: none"> b. If the errors found in 2. above are material, correct the system through a CIP and retest that trade area the following year. Report compliance is less than 95%, but a CIP was implemented. </td><td data-bbox="1178 391 1967 1349"> <p>After determining the cause of errors in 2. above, the importer that has not had a CA review should complete either option a. or b. below:</p> <ol style="list-style-type: none"> a. Correct the systems problems through a CIP, and annually retest trade area until it is at least 95% compliant. Report compliance is less than 95%, but a CIP was implemented. b. The following two options which expand the sample may show that compliance is not less than 95%. <ol style="list-style-type: none"> (1) If only one error occurred and it is considered to be a non-recurring anomaly (fluke) whether material or immaterial, expand transaction testing (for that trade area only) to a total of 90 transactions, an additional 31 transactions. If no additional errors are found, report compliance is at least 95%. However, if additional errors are found, apply option b.(2) below if the errors are believed to be recurring immaterial errors. Otherwise, correct the system and report compliance as noted in a. above. (2) If errors found are believed to be recurring, but immaterial as defined in appendix VI, expand transaction testing to a full estimation sample (a review of 220 transactions) to apply the materiality criteria. <ul style="list-style-type: none"> • If there are no more than 5 errors out of the 220, then report that compliance is at least 95%. • If there are more than 5 material errors, correct the system through a CIP, and report that compliance was less than 95%. Retest this trade area the following year (which may be limited to a discovery sample with the application of the materiality criteria for any errors found). </td></tr> </table> 	<ol style="list-style-type: none"> a. If all errors found in 2. above are the same type as those disclosed and determined to be immaterial in the prior CA review, then report compliance is at least 95% due to materiality. <p>Note: The type and cause of the errors have to be identical to the immaterial errors disclosed in the CA review. Also, the magnitude of the errors should be within the range (dollars and frequency) as those found in the CA.</p> <ol style="list-style-type: none"> b. If the errors found in 2. above are material, correct the system through a CIP and retest that trade area the following year. Report compliance is less than 95%, but a CIP was implemented. 	<p>After determining the cause of errors in 2. above, the importer that has not had a CA review should complete either option a. or b. below:</p> <ol style="list-style-type: none"> a. Correct the systems problems through a CIP, and annually retest trade area until it is at least 95% compliant. Report compliance is less than 95%, but a CIP was implemented. b. 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IV. Statistical Sampling Comments/Other

- A. The rationale for using the materiality test on a discovery sample where the importer has had a CA performed is as follows:
- Most patterns of noncompliance would have been disclosed by the CA review from performing an attribute estimation sample and applying the materiality policy.
 - Customs and the importer should have agreed on how to correct any systemic problems.
 - Customs and the importer should have resolved how future discrepancies were to be monitored and reported to Customs.
 - The importer should understand how to apply Customs criteria to determine what is and is not a material noncompliance.
 - ICMP testing of limited transactions after the completion of a CA focuses on new systems errors or departures from internal controls implemented and validated in the CA.
- B. Before any ICMP results can effect an importer's risk level rating, Customs will have to validate ICMP findings to show that compliance is at least 95 percent with good internal controls.
- C. Participation in the program does not preclude a CA review from being performed. However, ICMP results may be used to reduce the frequency and/or scope of future reviews made by Customs.

V. Statistical Sampling Definitions

Universe	A group of similar transactions with a common attribute(s) to be tested.
Sampling Frame	The physical or electronic representation of the universe from which a sample will be taken. The importer should work with Customs to determine the most efficient/valid sampling frame from which the sample will be selected.
Objective/Attribute	Compliance/noncompliance with Customs laws and regulations for which sample items are tested.
Sampling Approach	The method used to randomly select transactions and statistically evaluate sample results. Attribute sampling provides the frequency of errors in the universe. Since, the goal of a compliance assessment is to evaluate an importer's Customs related systems and determine the rate of compliance with Customs laws and regulations, attribute estimation sampling is the approach used.
Estimation Sampling	A sampling approach designed to estimate the frequency of a specific type of error in a universe (or system).
Discovery Sampling	A sampling approach that utilizes minimal sample sizes to ensure that a specified maximum acceptable error rate (critical error rate) is not exceeded. It is not designed to estimate the "error" content in the universe. It is most appropriately used when a universe is expected to be compliant based on experience or knowledge of that universe.
Critical Error Rate	The maximum acceptable error rate in the universe.
Point Estimate / Projection	A statistical approximation of the error rate in the universe based on the sample results.
Confidence Level	The reliability of a sample projection or the assurance/probability that the true error in the universe falls within the range represented by the confidence interval.
Sampling Error / Precision	Error inherent to sampling that results from testing less than the entire population. Sampling error is the precision of the sample projection and is usually expressed as plus or minus a certain percentage.
Confidence Interval	A range of values within which the true or actual error rate in the universe may be expected to lie given a specified confidence level. It is the point estimate plus or minus the precision.

**SUMMARY
POLICY ON MATERIALITY OF
ERRORS IN COMPLIANCE ASSESSMENTS**

I. Policy on Reporting Compliance Assessment/Audit Results

- A. In accordance with Generally Accepted Government Auditing Standards, Customs will report all instances of noncompliance with laws and regulations to the auditee and will also place its findings in relation to the number of cases examined in perspective in the audit report.
- B. A “letter of the law” compliance rate (LOL compliance rate) will be computed for classification, quantity, and value. If the LOL compliance rate is below 95% in classification, quantity and value, a materiality compliance rate will be computed and audit reports will include both rates:
 - Letter of the law compliance rate
 - Materiality compliance rate.
- C. The Materiality compliance rate will be the basis for the “bucket” recommendation in the audit report.
- D. No LOL compliance rate will be computed for recordkeeping because materiality is considered in the selection of records/data to test; therefore, only a materiality rate will be computed.
- E. Any discrepancies uncovered during the compliance assessment will be examined to determine whether any revenue or penalty consequences arise.

II. Benefits of the Policy

- A. It complies with government auditing standards.
- B. It provides a means to compare compliance assessment and compliance measurement test results for quantity, classification and value.
- C. There is a clearly defined basis for Customs action.
- D. Compliance statistics are recorded.

III. Details for Each Trade Area

A. Classification

1. *LOL compliance rate*

- a. The CAT import specialist reviews the classification of each item in the sample and compares it to the classification entered on the CF7501.

- b. Any discrepancy between the tariff number determined to be correct by the CAT import specialist and the tariff number entered on the CF7501 is counted as an error.
- c. Sample data is entered into an electronic sampling program which projects a statistically valid error rate (includes allowance for sampling error). The LOL compliance rate is 100% minus the projected error rate. The LOL compliance rate states the percentage of sampled items that are correctly classified to the 10th tariff digit.
- d. If the LOL compliance rate is below 95%, a materiality compliance rate will be computed to put the materiality of the errors in perspective.

2. Materiality Compliance Rate

- a. The CAT import specialist determines for each discrepancy where in the tariff number the classification error occurred (at which digit). If the discrepancy occurred at the 9th or 10th digit, the CAT import specialist determines if the discrepancy resulted in a loss of revenue or affected admissibility.
- b. Any discrepancies identified in digits 1-8 of the entered tariff classification plus any discrepancies in the 9th or 10th digit that resulted in a loss of revenue or affected admissibility are counted as “material” errors.
- c. The CAT enters only the “material” errors in the electronic sampling program to determine the projected materiality error rate (including sampling error). The materiality compliance rate is 100% minus the projected materiality error rate. The materiality compliance rate states the percentage of sampled items that were correctly classified to the 8th tariff digit and had no errors at the 9th or 10th digit that caused a loss of revenue or affected admissibility.
- d. If the materiality compliance rate is 95% or above, no compliance improvement plan is required, just a recommendation that the importer work to improve classification accuracy. If the materiality compliance rate is at least 95%, and internal controls are adequate, the company should be considered low risk for classification noncompliance.
- e. If the materiality compliance rate in classification is below 95%, the company should be considered high risk when recommending a bucket for cargo examinations and be required to submit a compliance improvement plan.

B. Quantity

1. *LOL Compliance Rate*

- a. The CAT reviews the quantity recorded in company records (inventory, receiving, etc.) and compares that quantity to the number recorded on the CF7501. In some cases, the tariff does not require a unit quantity on the CF7501, so the quantity in company records may be compared to quantities on the commercial invoice instead.
- b. Any discrepancy, either over or short, between the quantity entered in company records and the quantity on the CF7501, or invoice if that is used, is counted as an error.
- c. Sample data is entered into an electronic sampling program which projects a statistically valid error rate (includes allowance for sampling error). The LOL compliance rate is 100% minus the projected error rate. The LOL compliance rate states the percentage of items tested that had accurate entered quantities.
- d. If the LOL compliance rate is below 95%, a materiality compliance rate will be computed to put the materiality of the errors in perspective and determine the government risk and the associated level of cargo examinations to recommend in the audit report.

2. *Materiality Compliance Rate*

- a. To put the errors in perspective, the value of each of the discrepant units, both over and underdeclared, is added to determine the absolute value of the quantity errors. Quota/visa items are treated the same as other quantity discrepancies. The total value of the discrepant quantities is divided by the total value of the sample to compute the materiality error rate. For example: The total value of the 220 line items is \$3 million. There are 140 discrepant units valued at \$100 each (\$14000). The materiality error rate is .47% ($\$14,000 / \$3,000,000 = .47\%$). The materiality compliance rate is 99.53% ($100\% - .47\% = 99.53\%$). This method uses a simple ratio, with no sampling error added. The materiality compliance rate measures the value of the errors in relation to the total value of the quantities tested.
- b. If the materiality compliance rate is 99.5% or above, no compliance improvement plan is required, just a recommendation that the importer work to improve its system for reporting accurate quantities. If the materiality compliance rate is at least 99.5%, and internal controls are adequate, the company should be considered low risk for quantity noncompliance.
- c. If the materiality compliance rate in quantity is below 99.5%, the company should be considered high risk when recommending a bucket for cargo examinations and be required to submit a compliance improvement plan.

C. Value

1. *LOL Compliance Rate*

- a. The CAT reviews the value recorded in company records (payments, purchases, etc.) and compares that value to the amount recorded in the CF7501.
- b. Any discrepancy, either over or underdeclared, between the value entered in company records and the value on the CF7501, is counted as an error.
- c. Sample data is entered into an electronic sampling program which projects a statistically valid error rate (includes allowance for sampling error). The LOL compliance rate is 100% minus the projected error rate. The rate measures the percentage of the items tested that had accurate entered values.
- d. If the LOL compliance rate is below 95%, a materiality compliance rate will be computed to put the materiality of the errors in perspective and determine the government risk and the associated level of cargo examinations to recommend in the audit report.

2. *Materiality Compliance Rate*

- a. To put the errors in perspective, the value of each discrepancy, both over and underdeclared, is added to determine the absolute value of the discrepancies. The value of the discrepancies is divided by the total value of the sample to compute the materiality error rate. For example: The total value of the 220 items in the sample is \$5 million. Discrepancies in reported value total \$33,000. The materiality error rate is .66% ($\$33,000/\$5,000,000 = .66\%$). The materiality compliance rate is 99.34% ($100\% - .66\% = 99.34\%$). This method uses a simple ratio, with no sampling error added. The materiality compliance rate measures the value of the errors in relation to the total value tested.
- b. If the materiality compliance rate is at least 99.5%, and internal controls are good, the company should be considered low risk for noncompliance in reporting value and no compliance improvement plan is required, just a recommendation that the company work to improve the accuracy of the value reported to Customs.
- c. If the materiality compliance rate in value is below 99.5%, the company should be considered high risk when recommending a bucket for cargo examinations and be required to submit a compliance improvement plan.

D. Recordkeeping

1. *Materiality Compliance Rate*

- a. The recordkeeping test is to determine if an importer maintains and can produce records/data not required at time of entry. The specific records/data tested are listed in the current recordkeeping policy in the CAT Kit.
- b. The CAT reviews each item in the sample to determine if the importer maintains and can produce the records/data listed on the recordkeeping policy checklist for each one.
- c. If any data/information on the list of required records is not produced for an item, an error is counted.
- d. Sample data is entered into an electronic sampling program which projects a statistically valid error rate (includes allowance for sampling error). The materiality compliance rate is 100% minus the projected error rate. The materiality compliance rate states the percentage of sampled items for which the company maintained and produced (a)(1)(A) records/data not required at time of entry.
- e. If the materiality compliance rate is at least 95%, the company should be considered low risk for noncompliance in recordkeeping and no compliance improvement plan is required, just a recommendation that the company work to improve its recordkeeping if any discrepancies were identified.
- f. If the materiality compliance rate is below 95%, the company should be considered high risk for noncompliance in recordkeeping and be required to submit a compliance improvement plan. The importer may also be subject to recordkeeping penalties.